IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELALTE SIDE

WRIT PETITION NO.10696 OF 2004

Pradeep Vakharia. ...Petitioner.

Versus

Janakalyan Sahakari Bank Ltd. & Anr. ...Respondents.

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Mr. S.K. Sthalekar for the Petitioner.

Mr. Ms.Mamta Sadh i/b. Rahul Chitnis for the Respondents.

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CORAM : DR. D.Y. CHANDRACHUD, J.

May 5, 2005.

P.C.:

The dues of the Respondent Bank are approximately Rs.30 lakhs. A certificate has been issued under Section 101 of the Maharashtra Co-operative Societies' Act, 1960. The Petitioner is a guarantor. The Petitioner objected to the levy of attachment. The objection was overruled under Rule 107(19) of the Maharashtra Co-operative Societies' Rules, 1961. The revision under Section 154 has been dismissed on the ground of a failure of the Petitioner to comply with the mandatory condition of deposit under Section 154(2A). When this petition came up

for admission on 29th December 2004, the Learned Single Judge noted that the Bank had issued a notice of auction which was to take place on 30th December 2004. Notice was issued on 24th November 2004 and it was recorded that the petition has been filed virtually at the last moment seeking stay of auction. This Court held that there was absolutely no justifiable reason to stay the auction. An opportunity was given granted to deposit 1/3rd of the dues of the Bank, namely, an amount of Rs.10 lakhs subject to which the auction would be stayed. Since this was not acceptable, the Court declined to grant ad-interim stay of auction. Counsel appearing on behalf of the Bank states that auction has since taken place and the garage has been sold. In these circumstances, no case for interference under Article 227 is made out. The Petition is accordingly rejected.

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